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UNITED STATES DEPARTMENT OF AGRICULTURE
PRODUCTION AND MARKETING ADMINISTRATION

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 166

REGULATIONS FOR
THE ENFORCEMENT OF THE FEDERAL
INSECTICIDE, FUNGICIDE, AND
RODENTICIDE ACT

REGULATIONS OF THE SECRETARY OF AGRICULTURE;
JOINT REGULATIONS OF THE SECRETARY OF AGRICUL-
TURE AND THE SECRETARY OF THE TREASURY FOR
THE ENFORCEMENT OF SECTION 10 OF THE ACT

FEDERAL INSECTICIDE, FUNGICIDE,
AND RODENTICIDE ACT

(61 STAT. 163; 7 U. S. C. 135-135k)

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UNITED STATES DEPARTMENT OF AGRICULTURE
PRODUCTION AND MARKETING ADMINISTRATION

**REGULATIONS OF THE SECRETARY OF AGRICULTURE
FOR THE ENFORCEMENT OF THE FEDERAL INSECTI-
CIDE, FUNGICIDE, AND RODENTICIDE ACT**

(Title 7, Ch. I, Pt. 162 of the Code of Federal Regulations)

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162.1 Words in singular form.—Words used in the singular form in the regulations in this part shall include the plural, and vice versa, as the case may require.

162.2 Terms defined and construed.—All terms used in these regulations in this part shall have the meaning set forth for such terms in the act. In addition, such terms shall be construed as follows:

(a) *Act.*—"Act" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(b) *Director.*—"Director" means the Director of the Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, or any officer or employee to whom he has heretofore lawfully delegated or to whom he may hereafter lawfully delegate the authority to act in his stead.

(c) *Economic poison.*—"Economic poison" includes insecticides, fungicides, rodenticides, and herbicides. A product shall be deemed to be an economic poison regardless of whether intended for use as packed or after dilution or mixture with other substances, such as carriers or baits. Products intended only for use after further processing or manufacturing, such as grinding to dust form or more extensive operations, shall not be deemed to be economic poisons. Substances which have recognized commercial uses other than uses as economic poisons shall not be deemed to be economic poisons unless such substances are (1) specially prepared for use as economic poisons, or (2) labeled, represented, or intended for use as economic poisons, or (3) marketed in channels of trade where they will presumably be purchased as economic poisons.

(d) *Fungicide.*—"Fungicide" includes but is not limited to:

(1) Plant fungicides, seed fungicides, fungicidal wood preservatives, and mildew and mold preventatives.

(2) Disinfectants, antiseptics and sterilizers, except those for use only on or in living man or other animals.

The term "fungicide" shall not include algaecides.

(e) *Active ingredient.*—An "active ingredient" is an ingredient which:

(1) Is capable in itself, and when used in the same manner and for the same purposes as directed for use of the product, of preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds, or other pests; and

(2) Is present in the product in an amount sufficient to add materially to its effectiveness; and

(3) Is not antagonistic to the activity of the principal active ingredient:

Provided, however, That the Director may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the economic poison to warrant such action.

(f) *Rodent.*—"Rodent" means any animal of the order Rodentia, including, but not limited to, rats, mice, rabbits, gophers, prairie dogs, and squirrels.

(g) *Official investigator.*—"Official investigator" means any employee or agent of the Department of Agriculture or the Treasury Department authorized by the Director or by the Secretary of the Treasury to make investigations in connection with enforcement of the act.

162.3 Administration.—The Director is authorized to take such action as, in his discretion, may be necessary in the administration and enforcement of the act and the regulations in this part.

162.4 Language to be used.—All statements, words, and other information required by the act or the regulations in this part to appear on the label or labeling of any economic poison shall be in the English language: *Provided*, That in the case of articles intended solely for distribution to points outside the continental United States the appropriate foreign language may be used in lieu of the English language.

162.5 Omission of label or labeling.—The omission of a label or labeling from any economic poison shall not affect any provision under the act or the regulations in this part with respect to any statement required to appear on such label or labeling.

162.6 Label.—(a) *Contents of label.*—The label of every economic poison must show, clearly and prominently, the name of the product; the name and address of the manufacturer, the registrant, or persons for whom manufactured; the net contents; the ingredient statement; and a warning or caution statement which may be necessary to prevent injury to living man and other vertebrate animals, useful vegetation, and useful invertebrate animals. The label of any economic poison which is highly toxic to man must also contain the skull and crossbones, and the word "poison" in red on a contrasting background and the antidote statement in immediate proximity thereto. The antidote statement shall include direction to call a physician immediately. The label of every economic poison, if necessary to prevent injury to living man and other vertebrate animals, useful vegetation, and useful invertebrate animals, must contain an appropriate warning or caution statement as required in 162.9.

(b) *Name and address of manufacturer.*—An unqualified name and address given on the label shall be considered as the name and address of the manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom the economic poison was manufactured appears on the label, it must be qualified by appropriate wording such as "Packed for * * *," "Distributed by * * *," or "Sold by * * *," to show that the name is not that of the manufacturer. When a person manufactures an economic poison in two or more places or in a place different from the manufacturer's principal office, the actual place of manufacture of each particular package need not be stated on the label except when, under the special circumstances existing, the failure to name it may be misleading to the public. The address of the manufacturer, registrant, or person for whom manufactured shall include the street address, if any, unless the street address is shown in a current city directory or telephone directory.

(c) *Name, brand, or trade-mark of economic poison.*—The name, brand, or trade-mark of the economic poison appearing on the label shall be that under which the economic poison is registered.

(d) *Net content.*—(1) The net content shall be exclusive of wrappers or other material, and shall be deemed to be average content unless stated as a minimum quantity.

(2) Net content shall be stated in the terms of weight or measure in general use by consumers and users of the economic poison to give accurate information as to the quantity of the economic poison. If there is no general use, the net content statement shall be in terms of liquid measure if the product is a liquid, and in terms of weight if it is a solid, semisolid, viscous, or a mixture of liquid and solid. Statements of liquid measure shall be in terms of the United States gallon, quart, pint, and fluid ounce at 68° F. The statements of weight shall be in terms of avoirdupois pound and ounce. All statements of net content shall be in terms of the largest unit present.

(3) If the contents are stated as a minimum quantity, variation below is not permissible and variation above shall not be unreasonably large.

(4) If the contents are not stated as a minimum quantity, variation shall be permitted only to the extent that it represents deviations unavoidable in good packing practice. The average quantity in the packages in a shipment shall not fall below the average quantity stated, nor shall there be any unreasonable variation from the average in the contents of any package.

162.7 Ingredient statement.—(a) *Location of ingredient statement.*—The ingredient statement must appear on that part of the label displayed under customary conditions of purchase except in cases where the Director determines that, due to the size or form of the container, a statement on that portion of the label is impractical and permits such statement to appear on another side or panel of the label. When so permitted, the ingredient statement must be in larger type and more prominent than would otherwise be possible. The ingredient statement must run parallel with other printed matter on the panel of the label on which it appears and must be on a clear contrasting background not obscured or crowded.

(b) *Names of ingredients.*—The well-known common name of the ingredient must be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the Director may permit the use of a new or coined name which he finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the Director may prescribe the terms under which it may be used. A trade-mark or trade name may not be used as the name of an ingredient except when it has become a common name.

(c) *Percentages of ingredients.*—Percentages of ingredients shall be determined by weight and the sum of the percentages of the ingredients shall be 100. Sliding scale forms of ingredient statements shall not be used.

(d) *Designation of ingredients.*—(1) Active ingredients and inert ingredients shall be so designated, and the term "inert ingredients" shall appear in the same size type and be equally as prominent as the term "active ingredients."

(2) If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall, respectively, be shown in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

(e) *Active ingredient content.*—As long as an economic poison is subject to the act the percentages of active ingredients declared in the ingredient statement shall be the percentages of such ingredients in the economic poison.

162.8 Economic poisons highly toxic to man.—The Secretary hereby finds that economic poisons which fall within any of the following categories when tested on the laboratory animals, mice, rats, and rabbits, are highly toxic to man or contain substances or quantities of substances highly toxic to man within the meaning of the act:

(a) *Oral toxicity.*—Those which produce death in half or more than half the animals of any species at a dosage of 50 milligrams at a single dose, or less, per kilogram of body weight when administered orally to ten or more such animals of each species.

(b) *Toxicity on inhalation.*—Those which produce death in half or more than half of the animals of any species at a dosage of 200 parts or less by volume of the gas or vapor per million parts by volume of air when administered by continuous inhalation for one hour or less to ten or more animals of each species, provided such concentration is likely to be encountered by man when the economic poison is used in any reasonably foreseeable manner.

(c) *Toxicity by skin absorption.*—Those which produce death in half or more than half of the animals (rabbits only) tested at a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less to ten or more animals:

Provided, however, That the Director may, upon application and after opportunity for hearing, exempt any economic poison which meets the above standard but which is not in fact highly toxic to man, from the requirements of the act and the regulations in this part with respect to economic poisons highly toxic to man.

162.9 Warning or caution statement.—The warning or caution statement, when necessary to prevent injury to living man and other vertebrate animals,

useful vegetation, and useful invertebrate animals, must appear on the label in a place sufficiently prominent to warn the user, and must state clearly and in nontechnical language the particular hazard involved in the use of the economic poison, e. g., ingestion, skin absorption, inhalation, inflammability or explosion, and the precautions to be taken to avoid accident, injury, or damage.

The word "Poison" in red on a contrasting background in immediate proximity to the skull and crossbones and an antidote, including directions to call a physician immediately, shall appear on all economic poisons highly toxic to man.

162.10 Registration.—(a) *Eligibility.*—Any manufacturer, packer, seller, distributor or shipper of an economic poison is eligible as a registrant and may register such economic poison.

(b) *Effect of registration.*—If an economic poison is registered under the act no further registration under the act is required: *Provided, That*

(1) The product is in the manufacturer's or registrant's original unbroken immediate container; and

(2) The claims made for it and the directions for its use do not differ in substance from the representations made in connection with registration.

(c) *Procedure for registration.*—Applications for registration should be addressed to Insecticide Division, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. Application forms will be furnished upon request. Applications should be submitted as far in advance as possible and at least 30 days before the time when it is desired that registration take effect. No fees are charged for registration.

(d) *Effective date of registration.*—Registration of an economic poison shall become effective on the date the notice of registration is issued.

(e) *Responsibility of a registrant.*—The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of an economic poison.

(f) *Changes in labeling or formulas.*—(1) Changes in substance in the labeling or changes in the formula of a registered economic poison must be submitted in advance to the Insecticide Division, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. The registrant must describe the exact changes desired and the proposed effective date and, upon request, shall submit a description of tests which justify such changes.

(2) After the effective date of a change in labeling or formula the product shall be marketed only under the new claims or formula, except that a reasonable time may be permitted by the Director to dispose of properly labeled stocks of old products.

(g) *Claims must conform to registration.*—Claims made for an economic poison must not differ in substance from representations made in connection with registration, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended.

162.11 Guarantee of economic poison.—(a) *By whom given.*—Any manufacturer, distributor, wholesaler, or other person residing in the United States may furnish to any person to whom he sells an economic poison a guarantee that the economic poison was lawfully registered at the time of sale and delivery to such person, and that the economic poison complies with all the requirements of the act and of the regulations in this part.

(b) *Reference to guarantee.*—No reference to or suggestion that a guarantee of registration has been given shall be made in the labeling of any economic poison.

(c) *Contents of guarantee.*—In order to afford effective protection, each guarantee must:

(1) Be signed by and contain the name and address of the person giving it; and

(2) State that the economic poison was lawfully registered at the time of sale and delivery and that it complies with all other requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

(d) *Scope of guarantee.*—A guarantee may be (1) limited to a specific shipment or other delivery of a product, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery, or (2) general and continuing, in which case, in its application to any shipment or other delivery of a product, it shall be considered to have been given at the date when such product was shipped or delivered by the person giving the guarantee.

(e) *Expiration of guarantee.*—Any guarantee shall expire when the product is repacked or relabeled by the purchaser or when it becomes otherwise in violation of the act or the regulations in this part after shipment or other delivery by the person who gave such guarantee.

(f) *Forms of guarantee.*—The following are suggested forms of guarantee:

(1) Limited form for use on invoice or bill of sale.

----- hereby guarantees that the economic poison herein listed is lawfully registered with the Secretary of Agriculture and that the same complies with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

----- Signature and post office address of guarantor

----- Date

(2) General and continuing form.

The economic poisons comprising each shipment or other delivery hereafter made by -----, to or on the order of -----

Name of guarantor Name and address of person receiving guarantee are hereby guaranteed to be lawfully registered with the Secretary of Agriculture and to comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, as of the date of such shipment or delivery.

----- Signature and post office address of guarantor

----- Date

162.12 Coloration and discoloration.—The white economic poisons hereinafter named shall be colored or discolored in accordance with this section. The hues, values, and chromas specified are those contained in the Munsell Book of Color, Munsell Color Co., 10 East Franklin Street, Baltimore, Md.

(a) *Coloring agent.*—The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in the regulations in this part during ordinary conditions of marketing or storage, and must not cause the product to be ineffective or result in its causing damage when used as directed.

(b) *Arsenicals and barium fluosilicate.*—Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(c) *Sodium fluoride and sodium fluosilicate.*—Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(d) *Exception.*—Notwithstanding the provisions of paragraphs (b) and (c) of this section the Director, after opportunity for hearing, may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for such purpose and if such action will not be injurious to the public.

162.13 Adulteration; valuable constituent.—(a) A valuable constituent will be considered as wholly abstracted whenever the designation or representation of the product imports its presence therein and such constituent has been wholly omitted therefrom in the preparation of the product or has been wholly removed from the completed product.

(b) A valuable constituent will be considered as partly abstracted whenever the designation or representation of the product imports its presence therein, and such constituent is not present in the usual or customary amount or in the amount indicated in the labeling.

162.14 Misbranding.—(a) *False or misleading statements.*—Among representations in the labeling of an economic poison which render it misbranded are the following:

- (1) A false or misleading statement concerning composition of the product.
- (2) A false or misleading statement concerning the effectiveness of the product as an economic poison or device.
- (3) A false or misleading statement about the value of the product for purposes other than as an economic poison or device.
- (4) A false or misleading comparison with other economic poisons or devices.
- (5) A false or misleading representation as to the safety of the economic poison or of its ingredients including a statement such as "non-poisonous," "non-

"injurious," or "non-hazardous" unless the product is in fact safe under all conditions.

(6) Any statement directly or indirectly implying that the economic poison or device is recommended or endorsed by any agency of the Federal Government.

(7) The name of an economic poison which contains two or more ingredients if it suggests the name of one or more but not all such ingredients, even though the names of the other ingredients are stated elsewhere in the labeling: *Provided, however,* That it is permissible, when the percentage of each active ingredient is given in the name, to omit reference in the name to the inert ingredients.

(8) Prominent reference in the labeling to one or more active ingredients without giving their percentages in immediate proximity thereto or without giving equal prominence to the other active ingredients or to the presence of inert ingredients.

(9) A true statement used in such a way as to give a false or misleading impression to the purchaser.

(b) *Justification of false and misleading statements not permitted.*—(1) The use of any false or misleading statement on any part of the labeling, given as the statement or opinion of any person or based upon such statement or opinion shall not be justified, nor may such statement be justified by the fact that the statement or opinion is actually that of such person.

(2) The use of a false or misleading statement in the labeling cannot be justified by an explanatory statement.

162.15 Enforcement.—(a) *Collection of samples.*—Samples of economic poisons and devices shall be collected by official investigators or by any employee of the Federal Government, or of a State, Territory, or political subdivision who has been duly designated by the Director.

(b) *Examination of samples.*—Methods of examination of samples shall be those adopted and published by the Association of Official Agricultural Chemists, where applicable, and such other methods as may be necessary to determine whether the product complies with the law.

(c) *Notice of apparent violation.*—(1) If from an examination or analysis an economic poison or device appears to be in violation of the act, a notice in writing shall be sent to the person against whom criminal proceedings are contemplated, giving him an opportunity to offer such written explanation as he may desire. The notice shall state the manner in which the sample fails to meet the requirements of the act and the regulations.

(2) Any such person may, in addition to his reply to such notice, file within 20 days of its receipt a written request for an opportunity to present his views orally in connection therewith.

(3) No notice or hearing shall be required prior to the seizure of any economic poison or device.

162.16 Notice of judgment.—Publication of judgments of the courts in cases arising under the criminal or seizure provisions of the act shall be made in the form of notices, circulars, or bulletins as the Director may direct.

162.17 Shipments for experimental use.—(a) *Articles for which no permit is required.*—(1) A substance or mixture of substances being put through tests in which the purpose is only to determine its value for economic poison purposes or to determine its toxicity or other properties, and where the user does not expect to receive any benefit in pest control from its use is not considered an economic poison within the meaning of section 2a of the act and 162.2 (c). Therefore, no permit under the act is required for its shipment.

(2) An economic poison shipped or delivered for experimental use by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons shall not be subject to the provisions of the act and the regulations in this part.

(b) *Articles for which permit is required.*—(1) An economic poison shipped or delivered for experimental use by other qualified persons but not under the supervision of a Federal or State agency authorized by law to conduct research in the field of economic poisons, shall be exempt from the provisions of the act and of the regulations in this part: *Provided,* That a permit for such shipment or delivery is obtained prior thereto. Permits will be of two types, specific and general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to different persons.

(2) All applications for permits covering shipments for experimental use must be signed by the shipper or person making delivery and must contain the following:

(i) Name and address of shipper and place or places from which shipment will be made.

(ii) Proposed date of shipment or proposed shipping period not to exceed one year.

(iii) Identification of material to be covered by permit which should apply to a single material or group of closely allied materials.

(iv) Approximate quantity to be shipped and types of tests such as greenhouse, orchard, or field.

(v) A signed statement whether the product is sold or is delivered without cost.

(vi) A signed statement that the economic poison is intended for experimental use only.

(vii) Proposed labeling which, in addition to other statements, must state that the product is for experimental use only.

(c) *Cancellation of permits.*—Any permit for shipment for experimental use may be cancelled at any time for any violation of the terms thereof.

162.18 **Exemptions.**—(a) Any economic poison specified in 162.12 of these regulations which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dyer as a mothproofing agent, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric shall be exempt from the requirements of section 3 (a) (4) of the act and 162.12.

(b) The economic poison sodium fluoride shall be exempt from the requirements of section 3 (a) (4) of the act and 162.12 (c) when (1) it is intended for use as a fungicide solely in the manufacture or processing of rubber, glue, or leather goods; (2) coloration of said economic poison in accordance with said requirements will be likely to impart objectionable color characteristics to the finished goods; (3) said economic poison will not be present in such finished goods in sufficient quantities to cause injury to any person; and (4) said economic poison will not come into the hands of the public except after incorporation into such finished goods.

JOINT REGULATIONS OF THE SECRETARY OF AGRICULTURE AND THE SECRETARY OF THE TREASURY FOR THE ENFORCEMENT OF SECTION 10 OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

Pursuant to the authority of Section 6b of the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163; 7 U. S. C. 135-135k) approved June 25, 1947, and the Administrative Procedure Act (60 Stat. 237), we hereby make and publish the following regulations for the enforcement of Section 10, of the Federal Insecticide, Fungicide, and Rodenticide Act, to become effective January 30, 1948.

(Title 7, Ch. I, Pt. 162 of the Code of Federal Regulations)

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162.30 Definitions.—All terms used in the regulations in this part shall have the meaning set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act and 162.2 of the regulations promulgated by the Secretary of Agriculture thereunder. In addition the term "Collector of Customs" means any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

162.31 Registration.—All economic poisons are required to be registered under the provisions of section 4 of the act, and 162.10 of the regulations promulgated by the Secretary of Agriculture thereunder before being permitted entry into the United States.

162.32 Declaration.—All invoices of economic poisons and devices imported into the United States shall be accompanied by a declaration of the shipper, made before a United States consular officer, as follows:

I, -----, the undersigned, do hereby declare that I am the
(Name in full)
----- of the merchandise herein mentioned, which consists of
(Manufacturer or shipper)
economic poisons or devices or both. None of this merchandise is adulterated or misbranded or otherwise violates the prohibitions set forth in the Federal Insecticide, Fungicide, and Rodenticide Act in any respect, or is dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made, or from which it is exported. The merchandise was manufactured in ----- by -----
(Country) (Name of manufacturer)
and is exported from ----- consigned to -----
(City) (City)
Dated at ----- this ----- day of -----, 19-----
(Signature)

162.33 Notice of shipments for importation.—The Collector of Customs shall notify the Director of all shipments of economic poisons and devices being imported into the United States and shall detain all such shipments until notified by the Director that the shipment may be released.

162.34 Drawing of samples of import shipments.—The Collector of Customs shall, upon request by the Director, draw samples of import shipments of economic poisons and devices, and deliver them together with a copy of the labeling, and all accompanying circulars and advertising matter pertaining to such merchandise to the designated laboratory of the Production and Marketing Administration, United States Department of Agriculture.

162.35 Bond for release of imports pending examination.—Consignments of economic poisons and devices offered for importation into the United States may be detained pending examination to determine whether or not they comply with the requirements of the act, or they may be released to the consignee prior to such examination upon the execution of a customs single-entry or term bond in the appropriate form and in the amount prescribed in regulations of the United States Customs Service, United States Treasury Department, in force on the date of entry, and containing a provision for the redelivery of the merchandise or any part thereof upon the demand of the Collector of Customs at any time. The bond shall be filed with the Collector of Customs, who, in case of default, shall take appropriate action to effect the collection of all liquidated damages provided for in the bond.

162.36 Procedure after examination.—(a) If, upon examination or analysis of a sample from an import consignment of economic poisons or devices, such sample is found not to be in violation of the act, the Director shall notify the Collector of Customs that the shipment may be released. However, if, upon examination or analysis of the sample and consideration of other evidence in the case such sample is found to be in violation of the act, the owner or consignee shall be notified promptly by the Director of the nature of the violation and be given a reasonable time, not to exceed sixty days, to submit written material or, at his option, to appear before the Director and introduce testimony, to show cause why the shipment should not be destroyed or refused entry.

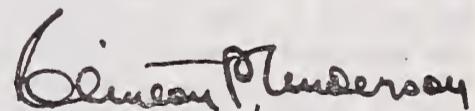
(b) If, after consideration of all of the evidence in the case, it still appears that the consignment may not lawfully be admitted into the United States, the Director shall notify the Collector of Customs that the merchandise is in violation of the act and the nature of the violation, and thereupon the Secretary of the Treasury (1) shall refuse delivery to the consignee and, under such regulations as he may prescribe, shall cause the destruction of any merchandise not exported by the consignee within 3 months from the date of notice of such refusal of entry or (2), if the shipment has been released to the consignee under bond, shall take action to enforce the terms of said bond.

These regulations shall become effective 30 days after publication thereof in the Federal Register.

Issued this 22d day of December 1947.

[SEAL]

E. H. FOLEY, JR.,
Acting Secretary of the Treasury.



CLINTON P. ANDERSON,
Secretary of Agriculture.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Approved June 25, 1947 (61 Stat. 163)

An Act to regulate the marketing of economic poisons and devices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE

SECTION 1. This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act."

DEFINITIONS

SEC. 2. For the purposes of this Act—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

b. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi or such other pests as may be designated by the Secretary, but not including equipment used for the application of economic poisons when sold separately therefrom.

c. The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

d. The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

e. The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Secretary shall declare to be a pest.

f. The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

g. The term "weed" means any plant which grows where not wanted.

h. The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

i. The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

j. The term "ingredient statement" means either—

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 6 of this Act);

and, in addition to (1) or (2) in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

k. The term "active ingredient" means an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds, or other pests.

l. The term "inert ingredient" means an ingredient which is not active.

m. The term "antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.

n. The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

o. The term "Territory" means any Territory or possession of the United States, excluding the Canal Zone.

p. The term "Secretary" means the Secretary of Agriculture.

q. The term "registrant" means the person registering any economic poison pursuant to the provisions of this Act.

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

s. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison or device, except to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of economic poisons;

t. The term "adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under this Act;

(c) if the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase: *Provided*, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

(f) if any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuity (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison.

PROHIBITED ACTS

SEC. 3. a. It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory, or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver in the original unbroken package to any other person, any of the following:

(1) Any economic poison which has not been registered pursuant to the provisions of section 4 of this Act, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration: *Provided*, That in the discretion of the Secretary, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold; and

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 6 of this Act, unless the label shall bear, in addition to any other matter required by this Act—

(a) the skull and crossbones;

(b) the word "poison" prominently (IN RED) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this Act, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored: *Provided*, That the Secretary may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded or any device which is misbranded.

b. Notwithstanding any other provision of this Act, no article shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

c. It shall be unlawful—

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this Act or the rules and regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this Act;

(2) for any manufacturer, distributor, dealer, carrier, or other person to refuse, upon a request in writing specifying the nature or kind of economic poison or device to which such request relates, to furnish to or permit any person designated by the Secretary to have access to and to copy such records as authorized by section 5 of this Act;

(3) for any person to give a guaranty or undertaking provided for in section 7 which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 7 may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; and

(4) for any person to use for his own advantage or to reveal, other than to the Secretary, or officials or employees of the United States Department of Agriculture, or other Federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the Secretary may prescribe, any information relative to formulas of products acquired by authority of section 4 of this Act.

REGISTRATION

SEC. 4. a. Every economic poison which is distributed, sold, or offered for sale in any Territory or the District of Columbia, or which is shipped or delivered for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or which is received from any foreign country shall be registered with the Secretary: *Provided*, That products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements; the registrant shall file with the Secretary a statement including—

(1) the name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

(4) if requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based.

b. The Secretary, whenever he deems it necessary for the effective administration of this Act, may require the submission of the complete formula of the economic poison. If it appears to the Secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 3 of this Act, he shall register it.

c. If it does not appear to the Secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this Act, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the Act so as to afford the registrant an opportunity to make the corrections necessary. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that it be registered, the Secretary shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this Act. In order to protect the public, the Secretary, on his own motion, may at any time, cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under section 3 of this Act.

d. Notwithstanding any other provision of this Act, registration is not required in the case of an economic poison shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part to make an economic poison which is registered under this Act.

e. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of each such five-year period, requests in accordance with regulations issued by the Secretary that such registration be continued in effect.

BOOKS AND RECORDS

SEC. 5. For the purposes of enforcing the provisions of this Act, any manufacturer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery, or who receives or holds any economic poison or device subject to this Act, shall, upon request of any employee of the United States Department of Agriculture or any employee of any State, Territory, or political subdivision, duly designated by the Secretary, furnish or permit such person at all reasonable times to have access to, and to copy all records showing the delivery, movement, or holding of such economic poison or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the economic poison or device. Notwithstanding this provision, however, the specific evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained.

ENFORCEMENT

SEC. 6. a. The Secretary (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out the provisions of this Act, including the collection and examination of samples of economic poisons and devices subject to this Act and the determination and establishment of suitable names to be used in the ingredient statement. The Secretary is, in addition, authorized after opportunity for hearing—

(1) to declare a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

(2) to determine economic poisons, and quantities of substances contained in economic poisons, which are highly toxic to man; and

(3) to determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 3a (4) of this Act.

b. The Secretary of the Treasury and the Secretary of Agriculture shall jointly prescribe regulations for the enforcement of section 10 of this Act.

c. The examination of economic poisons or devices shall be made in the United States Department of Agriculture or elsewhere as the Secretary may designate for the purpose of determining from such examination whether they comply with the requirements of this Act, and if it shall appear from any such examination that they fail to comply with the requirements of this Act, the Secretary shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Secretary it appears that the provisions of this Act have been violated by such person, then the Secretary shall certify the facts to the proper United States attorney, with a copy of the results of the analysis or the examination of such article: *Provided*, That nothing in this Act shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

d. It shall be the duty of each United States attorney, to whom the Secretary or his agents shall report any violation of this Act, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

e. The Secretary shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

EXEMPTIONS

SEC. 7. a. The penalties provided for a violation of section 3a of this Act shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, designating this Act. In such case the guarantor shall be subject to the penalties which

would otherwise attach to the person holding the guaranty under the provisions of this Act;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary.

PENALTIES

SEC. 8. a. Any person violating section 3a (1) of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000.

b. Any person violating any provision other than section 3a (1) of this Act shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction for each subsequent offense be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment: *Provided*, That an offense committed more than five years after the last previous conviction shall be considered a first offense: *And provided further*, That in any case where a registrant was issued a warning by the Secretary pursuant to the provisions of section 4c of this Act, he shall in each instance upon conviction for an offense concerning which he had been so warned be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the Secretary to comply with all the requirements of this Act.

c. Notwithstanding any other provision of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 4 of this Act, he shall be fined not more than \$10,000 or imprisoned for not more than three years, or both such fine and imprisonment.

d. When construing and enforcing the provisions of this Act, the act, omission, or failure, of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

SEIZURES

SEC. 9. a. Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

(1) in the case of an economic poison—

(a) if it is adulterated or misbranded;

(b) if it has not been registered pursuant to the provisions of section 4 of this Act;

(c) if it fails to bear on its label the information required by this Act; or

(d) if it is a white powder, economic poison, and is not colored as required under this Act; or

(2) in the case of a device if it is misbranded.

b. If the article is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the legal costs, shall be paid into the Treasury of the United States, but the article shall not be sold contrary to the provisions of this Act or of the laws of the jurisdiction in which it is sold: *Provided*, That upon the payment of the costs of the libel proceedings and the execution and delivery of a good and sufficient bond conditioned that the article shall not be sold or otherwise disposed of contrary to the pro-

visions of this Act or the laws of any State, Territory, or District in which sold, the court may direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

c. When a decree of condemnation is entered against the article, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

IMPORTS

SEC. 10. The Secretary of the Treasury shall notify the Secretary of Agriculture of the arrival of economic poisons and devices offered for importation and shall deliver to the Secretary of Agriculture, upon his request, samples of economic poisons or devices which are being imported or offered for import into the United States, giving notice to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the prohibitions set forth in this Act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, the said article may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*. That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

DELEGATION OF DUTIES

SEC. 11. All authority vested in the Secretary by virtue of the provisions of this Act may with like force and effect be executed by such employees of the United States Department of Agriculture as the Secretary may designate for the purpose.

AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

SEC. 12. a. There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of this Act. In order to carry out the provisions of this Act, which take effect prior to the repeal of the Insecticide Act of 1910, appropriations available for the enforcement of such Act are authorized to be made available.

b. The Secretary is authorized from the funds appropriated for this Act to make such expenditures as he deems necessary, including rents, travel, supplies, books, samples, testing devices, furniture, equipment, and such other expenses as may be necessary to the administration of this Act.

COOPERATION

SEC. 13. The Secretary is authorized to cooperate with any other department or agency of the Federal Government and with the official agricultural or other regulatory agency of any State, or any State, Territory, District, possession, or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

SEPARABILITY

SEC. 14. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 15. All provisions of this Act, except section 3, "Prohibited Acts"; section 8, "Penalties"; section 9, "Seizures"; and section 10, "Imports", shall take effect upon enactment, and sections 3, 8, 9, and 10 of this Act shall take effect as follows: (1) As to devices, upon enactment; (2) as to rodenticides and herbicides, six months after enactment; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardships, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910.

REPEALS

SEC. 16. The Insecticide Act of 1910, approved April 26, 1910 (36 Stat. 331, 7 U. S. C. 121-134), is hereby repealed one year after the date of the enactment of this Act: *Provided*, That, with respect to violations, liabilities incurred, or appeals taken prior to said date, and with respect to sales, shipments, or deliveries of insecticides and fungicides under an exemption granted by the Secretary under section 15, all provisions of the Insecticide Act of 1910 shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violations, liabilities, appeals, or to such sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary under section 15.

Approved June 25, 1947.

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